



OFFICE OF WORKFORCE DEVELOPMENT

December 28, 2004

WORKFORCE INVESTMENT ACT  
INSTRUCTION NUMBER 58  
CHANGE NUMBER 2

TO: All Chief Elected Officials, WIB Chairs, and LWIA Directors

FROM: John Warner Smith, Secretary  
Louisiana Department of Labor

SUBJECT: WIA Year 5 Certification Process for Eligible Training  
Programs/Providers (Subsequent Eligibility)

The purpose of this instruction is to provide background information and guidance in the continued implementation of the Workforce Investment Act (WIA). It is intended to inform local workforce investment areas, training providers and other stakeholders about the certification process and procedures that must be utilized in order to include training programs/providers on the Year 5 Statewide Eligible Training Provider List (ETPL), effective January 1, 2005 through December 31, 2005. Local areas are requested to widely distribute copies of this instruction to service providers, individuals, and partners within your area. It is also available on LDOL's website <http://www.LAWORKS.net>, Workforce Development tab – Eligible Training Provider Information.

**Overview:**

The WIA strategy is designed to enhance customer choice through a system of Individual Training Account (ITA) vouchers, while assuring program quality through a provider certification system. The intent of the WIA is to empower individuals by allowing them to choose the program of training or education they need, giving them the information to make informed decisions, while increasing accountability and quality among providers. The training provider list, therefore, should include as many training providers as possible with associated performance data. This should result in a competitive market designed to give customers the best choices for training, as well as the opportunity to receive premium services and information that will lead to a strong provider marketplace.

WIA mandates that the Local Workforce Investment Boards (LWIBs), in conjunction with the Department of Labor, identify training service providers whose performance qualifies them to receive WIA Title I-B funds to train job seekers. Designation as an Eligible Training Provider is based on minimum criteria established by the State Workforce Commission. This policy addresses Year 5 eligibility for training providers, the training provider list, and the appeal process.

### Who qualifies as a training provider?

The following types of providers may apply for program certification/re-certification of training services:

- Post-Secondary educational programs that are (a) eligible to receive funds under Title IV of the Higher Education Act of 1965 and (b) provide a program that leads to an Associate Degree, Bachelor's Degree or Certificate;
- Post-secondary educational institutions seeking training funds for a program(s) that does not lead to an associate or baccalaureate degree, certification, or is not funded under Title IV of the Higher Education Act of 1965;
- Public and Private providers of a program of training services, which includes entities such as some vocational-technical schools, community based organizations (CBO's), private training companies, labor organizations, employer organizations;
- Entities that carry out programs under the National Apprenticeship Act of 1937. These include universities, colleges, some community colleges, some vocational-technical colleges, some proprietary schools, and apprenticeship programs registered with the Bureau of Apprenticeship Training, U.S. Department of Labor;
- Apprenticeship programs wishing to receive training funds for a program not registered with the Federal Bureau of Apprenticeship Training; and
- A local WIB that has applied for and been granted a waiver by the Governor as outlined in Section 117(f)(B) of the Act.

**Please note:** "Proprietary schools" must be licensed or determined exempt from licensure through the Louisiana Board of Regents. A "proprietary" school means any business enterprise operated for a profit or on a nonprofit basis which maintains a place of business within this state, or which sells or offers for sale any courses of instruction in this state.

### What types of training services are eligible?

Training services is a category of offerings that local boards are responsible for providing to adults and dislocated workers under WIA. The broad array of training services may include occupational skills training, on-the-job training, job-readiness training, adult education and literacy activities, cooperative education programs, training programs operated by the private sector, skill upgrading and retraining, entrepreneurial training, and customized training conducted by an employer. However, the occupational training services that may be obtained through the use of an ITA may not be so extensive. The selection of a program of training services must be directly linked to the employment opportunities either in the local area or in another area to which the individual is willing to relocate. Furthermore, training should be limited to those occupations that have been determined to be **in demand** in each particular local area. Demand occupations for each regional labor market area have been incorporated into the application process. For more information on demand criteria, please refer to the policy on defining occupations in demand for the purposes of WIA. This policy is available at <http://www.LAWWORKS.net>, Workforce Development tab – "Defining Occupations in Demand."

A program of training as defined in the WIA Final Regulations (Sec 663.508) is one or more courses or classes that, upon successful completion, leads to:

- 1) a certificate, diploma, associate degree or bachelor's degree;
- 2) a competency or skill recognized by employers; or
- 3) a training regimen that provides individuals with additional skills or competencies generally recognized by employers.

Stand-alone programs such as job readiness, basic skills, career exploration, and reading literacy programs will not be considered as training programs eligible for ITAs. Educational programs that are not occupational specific and are less than 90 days in duration are considered to be WIA intensive service activities. These programs provide instruction wherein the knowledge obtained can be used in many different jobs and is therefore not industry or job specific. They are designed to provide participants with short-term skill upgrade assistance to enable them to become job ready or advance up the career ladder. Examples of these types of programs include keyboarding computer courses, STCW (Standards of Training and Certificates of Watch Keeping) certification or OSHA certification. This exception does not include short-term training programs for specific occupations such as nursing assistant, phlebotomist and truck driving. If you have any questions concerning whether a particular program meets this criteria please contact your Program Advisor. In addition, commercially available off the shelf skill refresher programs designed to assist individuals who have completed training but need courses of study to renew their license are considered to be WIA intensive service activities. Examples of these types of programs include RN or LPN refresher courses.

Such programs do not need to be certified for inclusion on the statewide ETPL, but must follow local WIA procurement procedures. These programs will be included in the Training Provider section of the Louisiana Virtual One Stop system and will be denoted as Intensive Services instead of ITA Eligible. These programs are exempt from the ETPL performance requirements, however, providers must still submit their most recent enrollment information in the required format and local programmatic performance should be considered as part of the procurement process.

### **What is the application process for training providers?**

The LWIBs will be responsible for notifying entities in their area of the opportunity to apply for status as approved training providers. At the discretion of the LWIB, it may also solicit training providers from outside the local workforce investment area (LWIA). This solicitation may be done through a combination of direct mailings, newspaper notices, and other appropriate means. The LWIB will be responsible for ensuring that the training providers have access to the application for certification and to a list of demand occupations for its area. The demand occupation list is important because WIA requires training funds to be used to train people for demand occupations. The demand occupation list contains information for the training entities regarding where training funds should be used. Prospective training providers will be required to submit an application for each individual program or course of study to be offered. NOTE: **PROGRAMS**, not providers, for each physical location are certified through this process. Potential training providers must submit an application to the LWIB for each course of study or program being proposed, including cost information on each course or program.

Louisiana has implemented a single statewide internet-based application to be used by all training providers seeking approval by the LWIBs to provide WIA Title 1-B funded training in their local area. All potential training providers **must** complete an application through the on-line Consumer Reports System (CRS) component of the LDOL website. Applications will be reviewed by the LWIB. Those training providers that do not currently have data entry access to the CRS should contact LDOL's Office of Occupational Information Services at (225) 219-7760 to obtain the necessary security access. This statewide, standardized system eliminates duplication and provides uniformity in the provider information gathered for the statewide list. Each training provider will complete one single application containing all required information on the training institution and one on each program being proposed to receive WIA training funds. In addition to the application, each provider must submit required student data as outlined in the "Student Record Layout" available on LDOL's website under Quick Menu item WIA Information. High school students, prisoners and non-degree seekers are excluded from said data. A non-degree seeker is defined as an individual who is enrolled for a single course without intention of completing a program.

The data submission must include the signed Data Certification Statement also available on LDOL's website under "WIA Information."

As part of the certification process, the state will verify through the Louisiana State Board of Regents, a proprietary school's licensure status. Applications **will not** proceed through the certification process until this verification has been made. If you have any questions regarding licensure status, please contact Carol Marabella (225) 342-4253 or at the following address:

Louisiana State Board of Regents  
Proprietary School Section  
P.O. Box 3677  
Baton Rouge, LA 70821-3677

### **How often do training providers need to be certified?**

In order to remain eligible to provide training services, service providers must submit an application and meet performance levels on an annual basis. This re-certification process will verify that the training provider is: still offering the program, wishes to continue the program's eligibility to receive WIA training dollars, has consumer information in Louisiana's Virtual One-Stop System that is accurate, and has provided most recent performance data. All performance data will be calculated using the state SCORECARD system and its required elements. Training providers will be eligible to apply throughout the year. As new programs are submitted and approved throughout the year, the statewide ETPL will be updated on an ongoing basis. If the program is found to be ineligible for the statewide ETPL, the LWIB will cease to approve additional ITAs for that program until the program meets minimum eligibility requirements.

### **What is the status of ITAs issued for programs no longer on the ETPL?**

Students already enrolled in these program(s) will be permitted to continue even though the program may not now be on the approved eligible training provider list. This is a prudent use of WIA dollars since the participant(s) could be adversely impacted if they are not allowed to continue and without other alternative programs, the money initially spent would be wasted. Additionally, because of the travel and transportation problems, participants might not find other programs in the same field available on the current eligible training provider list. This provision does not apply to programs/institutions removed from the ETPL due to violations of the WIA law and regulations. This provision does not apply to students who have been issued an ITA by the WIA Title I program operator under the prior year's ETPL, but have never been enrolled and **attended** the program in the previous session. The LWIA should assist these students locate alternative training provider programs on the ETPL.

### **Geographic Requirements for Provider Certification: Where to Apply**

#### **· In-state Training Providers -**

WIA requires training providers to apply to the local board in each area in which the provider desires to provide training services. To avoid placing undue burden on the LWIBs for duplicative approval, an application will be considered by the applicable LWIBs within the regional labor market area (RLMA) in which the program is geographically located. Clients with ITAs from any local area may attend a program, once certified and included on the statewide ETPL. This list is available through Louisiana's Virtual One-Stop System (LAVOS) at <http://www.LAWORKS.net>, Interactive Services. Either register with the system or access it through "Education Services." Either click on "Training Provider" to access the list by school or "Training Program" to access the list by program.

#### **· Out-of state Training Providers -**

At this time, Louisiana is discussing ETPL reciprocal agreements with neighboring states. Training providers from other states should not apply to be on Louisiana's ETPL. Once the reciprocal agreements are complete, if a program has already been certified by the state in which the program is physically administered, these programs will be accessible to Louisiana participants. Louisiana currently has such an agreement with Mississippi. LDOL and the WFC are discussing policy parameters relating to use of out of state training providers.

· **Distance Learning -**

The provider of a program that is offered through distance learning will apply to the RLMA from which it anticipates receiving the most students. For subsequent re-certification, the provider will apply to the RLMA from which it received the most WIA Title I-B participants. LDOL and the WFC are discussing policy parameters relating to use of distance learning training providers.

**How long is the Review Process?**

Upon determination by a LWIB that a complete application meets the eligibility requirements in the WIA, the LWIB will record its approval or disapproval of the application, including the reasons it was rejected. (See section "Under what conditions will a training provider be denied" for local process for rejecting an application.) A determination must be made no later than 60 days from receipt of the application by the LWIB. Training programs/providers will appear on the statewide ETPL of certified training programs after LDOL verifies the eligibility, or 30 days have elapsed, whichever occurs first. LDOL will compile and publish the statewide list through LDOL's Louisiana Virtual One-Stop System.

**What are the State Minimum Performance Standards for Certification/Re-certification?**

The State of Louisiana is required by WIA to set minimum performance standards for LWIBs to use in certifying training programs. The federal law specifies the performance measures to be utilized by the state and requires that each program meet the state-imposed minimum performance standards in order to remain on the statewide ETPL. The Louisiana Workforce Commission has established the state minimum performance levels, as indicated below.

Minimum Performance Standards for WIA Year 4:

**1) Program Completion Rate (state minimum performance level: 30%)**

The total number of individuals completing the applicable program divided by the total number of individuals exiting the program (completers and non-completers).

**2) Employment Rate: (state minimum performance level: 50%)**

The number of all exiters from the applicable program that obtained unsubsidized employment in the first quarter subsequent to exiting the program, divided by the total number of exiters in the reporting period.

**3) Wages at placement: (state minimum performance level: \$5.60)**

The average wage expressed as an hourly rate, of all individuals participating in the applicable program that obtained unsubsidized employment. The method of calculating the average wage is aligned with the wage calculation used in the SCORECARD. For more information on this calculation please refer to the Data Limits found on SCORECARD via the Louisiana Virtual One Stop System available through LDOL's website.

The requirement for performance data may be waived by LDOL for new providers only, upon a show of good cause. A "new program" has been defined by the Louisiana Workforce Commission as a program that did not exist in the previous year for a unique training provider, CIP code and degree type.

These programs would be exempt from meeting eligibility performance standards until such time as the training cycle has been completed and performance data compiled based on the timeline established for reporting to LDOL.

- a) A “new program” will be required to submit performance data for the first year in which adequate performance of program graduates is available. (The reporting timeline would include the end of a training cycle plus the necessary time it takes to gather and process the performance data.)
- b) Existing private and non-private training providers that are applying for eligibility for the first time and have not previously collected individual records based on Social Security Numbers, shall also be considered “new programs” for the purposes of this policy.

All reasons for requesting a waiver of the performance data requirements must be adequately documented. The training provider must provide detailed justification for missing or incomplete data necessary to calculate the performance measures. Even if the program is exempt from performance, the most recent enrollment information must be submitted in the required format. Any waiver request should be submitted to LDOL’s Office of Occupational Information Services at (225) 219-7760.

### **Under what conditions will a training program be denied?**

Upon a determination by a LWIB that a complete application received by the LWIB does not meet the eligibility requirements (as set forth in the WIA, Public Law 105-220, Final Regulation dated August 11, 2000, or state policy), the LWIB shall issue a determination denying (denial notice) the application within 30 days. A separate denial notice will be required for each training program being denied. Such denial notice shall be delivered by certified mail, return receipt requested, to the training provider at the address listed on the application and to the attention of the contact person identified on the application. The denial notice shall clearly display the “date mailed” and shall clearly identify the program that was denied and the specific reason(s) for the denial. The denial notice shall also clearly state that the training provider has the right to appeal the LWIB’s decision within 30 days of the date the denial notice is received. The training provider’s appeal rights are outlined below.

A training provider may be denied certification for a training program for the following reasons:

- ◆ The application is not complete;
- ◆ Performance data is not included with the application; (*Training providers must submit the required student information to LDOL so that the performance calculations can be incorporated into the CRS.*)
- ◆ Performance data does not meet state minimum standards;
- ◆ Any requirement for training providers listed under the WIA or established by state policy has not been met.

The State (LDOL - Office of Workforce Development), upon receipt of the LWIB training provider/program list, and after appropriate evaluation of such lists, shall promptly issue determinations to any training provider that the state removes from the LWIB training provider/program list. The State shall follow the same guidelines outlined above for the LWIB training program denial process. If the state does not send a denial notice within 30 days after the electronic notification to LDOL of the LWIB's training provider/program list, the training program is automatically approved and will be published in the state approved ETPL, accessible through the Louisiana Virtual One-Stop System.

LDOL also has the responsibility to remove training providers/programs from the certified training provider/program list under the following conditions (documented proof that these conditions exist must be provided by the WIB):

- ◆ If it is determined that the training provider intentionally supplied inaccurate information; the termination will remain in effect for a minimum of two years.
- ◆ If it is determined that the training provider substantially violated any requirement under WIA or state policy;
- ◆ For failure to reapply under Subsequent Eligibility Procedures. If training providers do not reapply, they will be removed from the list.

### **Supplemental Data Provision:**

If a training program fails to meet the required minimum level of performance for employment, the training provider will have the opportunity to provide the LWIB with verifiable documentation regarding the employment status of students who exited the program. The employment documentation must be for the calendar quarter immediately following the quarter in which the student exited the program. Providers may only provide supplemental data for the employment measure. No supplemental data is allowed for completion rate or Wage at Placement (USDOL TEGL 7-99). Verifiable documentation includes the following:

- A paycheck stub
- W-2 form
- A written letter from the employer on letterhead stating employment
- Form 1099

After LDOL initially processes the “student data” required for the calculation of the performance measures, the application with the required performance measures will be reviewed by the LWIBs within the geographic area in which the program is physically located. Upon determination from the LWIB that the program meets the minimum completion rate and hourly wage rate, but does not meet the employment rate, LDOL will send to the training provider the Social Security numbers of those students who could not be found as employed through the Unemployment Insurance Wage record data. The training provider will provide the employment status documentation (acceptable documentation is listed above) directly to the LWIB that has reviewed the application. Upon verification of the documentation, the LWIB will forward the employment status to LDOL for inclusion in the performance calculations. A copy of the employment documentation must be sent to LDOL - Office of Workforce Development, Attn: Applicant Services Unit.

### **What appeal rights do the training providers have?**

Training providers can have a training program denied inclusion on the statewide training provider list by either the LWIB or the State. The training provider has appeal rights in either case.

#### **➤ Denial of Training Programs by the LWIB**

1. Local Level Review – Training providers will have 30 days from the receipt of the denial notice in which to file an appeal to the LWIB. The request for appeal must clearly identify the program denial that is being appealed and the reason for the appeal. (The list of reasons a training provider may be denied certification may be found on page 7 of this instruction.) Such appeal must be submitted in writing. The LWIB must issue a decision within 60 days after the appeal was filed. The LWIA must provide opportunity for a hearing and send the decision to the training provider by certified mail or hand delivered with a signature verifying receipt. If the training provider is not satisfied with the LWIB decision, an appeal may be filed with LDOL.

2. State Level Review – The training provider will have 30 days from receipt of the LWIB decision to appeal to LDOL. The appeal must be submitted, in writing, within 30 days of receipt of the LWIBs decision and must include a copy of the LWIBs decision. Within 60 days of receipt of the appeal an opportunity for a hearing will be provided and a decision will be issued to the training provider and a copy sent to the LWIA. All appeals must be forwarded, in writing, to the following address:

Louisiana Department of Labor  
Office of Workforce Development  
P.O. Box 94094  
Baton Rouge, LA 70804

The decision rendered by LDOL is final and may not be appealed to the U. S. Department of Labor.

➤ **Denial of Eligibility, Suspension and/or Termination by the State**

Following issuance by LDOL of a denial of eligibility, determination of suspension, or termination of eligibility, the training provider will have 30 days in which to submit an appeal to LDOL. Within 60 days of the receipt by LDOL of the appeal an opportunity for a hearing will be provided and a decision rendered to the training provider. All appeals must be forwarded, in writing, to the following address:

Louisiana Department of Labor  
Office of Workforce Development  
P.O. Box 94094  
Baton Rouge, LA 70804

The decision rendered by LDOL is final and may not be appealed to the U.S. Department of Labor.

**What are the exemptions to the Certification Process?**

Providers of OJT and/or customized training **ARE NOT SUBJECT** to the requirements outlined above, which requires the submission and certification of an application. The designated One-Stop in each local area will collect performance information and determine whether the OJT and customized training providers meet the required performance criteria as outlined in the LWIA local plan.

**A. On-the-Job Training (OJT)**

1. OJT can be provided by employers in the public and private sectors. A contract shall be developed between the employer and the local program that provides occupational training for WIA participants, for reimbursement up to a maximum of 50% of the participants' wages.
2. The local program shall not contract with employers who have previously demonstrated a pattern of failing to provide OJT participants with continued long-term employment, and with wages, benefits and working conditions equivalent to those provided to regular employees who have worked the same length of time and performed the same type of work.
3. OJT contracts shall be limited to the period of time required for the participants to become proficient in the occupations for which training is being provided. In determining the length of the contract, consideration should be given to the skill requirements of the occupation, academic and occupational skill level of the participant, prior work experience and the participant's individual employment plan.



## **B. Customized Training**

Customized training is designed to meet special requirements of the employer or group of employers, conducted with a commitment by the employer(s) to employ, or continue to employ, individuals upon successful completion of training. The employer shall pay at least 50% of the cost of training.

### **Under what circumstances may mechanisms other than ITAs be used to provide training services?**

Section 20 CFR §663.430(a)(2) of the WIA regulations states that contracts for services may be used instead of ITAs only for OJT or customized training, services to special populations that face multiple barriers to employment, and “when the Local Board determines that there are an insufficient number of eligible providers in the local area to accomplish the purpose of a system of ITAs. The Local Plan must describe the process to be used in selecting the providers under a contract for services.” This process is outlined in Instruction #70.

### **What is the process for the selection of eligible youth activity providers?**

Effective August 4, 2005, LWIBs may use training providers from the Statewide Eligible Training Provider List (ETPL) and may issue Individual Training Accounts (ITAs) to provide training services to older youth and out-of-school youth. LWIBs must still identify eligible providers of younger youth activities based on recommendations of the local Youth Council and award grants or contracts in accordance with the WIA, TEGL 9-00, Federal Regulations and state/local policy.

**If LWIBs have any questions, please contact your state program advisor. If potential training providers have any questions about the application process, please contact LDOL, Office of Occupational Information Services at (225) 219-7760.**

JWS:SG

APPROVED:

Tom Cox  
Chair  
Louisiana Workforce Commission  
February 3, 2005